

Docket No.: 00467/100M163-US1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Stephen Russak et al.

Application No.: 10/722,590

Confirmation No.: 5682

Filed: November 25, 2003

Art Unit: 2859

For: AXILLARY THERMOMETER

Examiner: G. K. Verbitsky

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT (IDS)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Information Disclosure Statement is submitted in accordance with 37 C.F.R. 1.97, 1.98, and it is requested that the information set forth in this statement and in the listed documents be considered during the pendency of the above-identified application, and any other application relying on the filing date of the above-identified application or cross-referencing it as a related application.

1. This IDS should be considered, in accordance with 37 C.F.R. 1.97, as it is filed:
(Check one of the boxes A-D)

- A. within three months of the filing date of the above-identified national application or within three months of the entry into the national stage of the above identified national application
- B. before the mailing date of a first office action on the merits, or a first office action after filing a request for continued examination.
- C. after (A) and (B) above, but before final rejection or allowance, and Applicants have made the necessary statement in box "i" below or paid the necessary fee in box "ii" below.

(check one of the boxes "i" and "ii" below:)

- i. Counsel states that, upon information and belief, each item of information listed herein was (check one of boxes (a) or (b))
 - (a) first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS; or
 - (b) not cited in a communication from a foreign patent office in a counterpart foreign application and, to the knowledge of undersigned after making reasonable inquiry, was not known to any individual designated in 1.56(c) more than three months prior to the filing of this IDS.
- ii. A check for the fee set forth in 1.17(p), presently believed to be \$180, is enclosed.

D. after (A), (B) and (C) above, but before payment of the issue fee: Applicant petitions under 37 C.F.R. 1.97(d) for the consideration of this IDS. Under 37 CFR 1.17(i) a check in the amount of \$180.00 is enclosed. Counsel certifies that, upon information and belief, each item of information listed herein was

(check one of the boxes "a" and "b" below:)

- (a) first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS; or
- (b) was not cited in a communication from a foreign patent office in a counterpart foreign application and, to the knowledge of undersigned after making reasonable inquiry, was not known to any individual designated in 1.56(c) more than three months prior to the filing of this IDS.

2. In accordance with 37 C.F.R. 1.98, this IDS includes a list (e.g., form PTO/SB/08) of all patents, publications, or other information submitted for consideration by the office, either incorporated into this IDS or as an attachment hereto. A copy of each document listed is attached, except as explained below.

(check boxes A, B and/or C and fill in blanks, if appropriate.)

- A. Pursuant to the 37 C.F.R. § 1.98(a)(2)(ii), a copy/copies of the U.S. Patent(s) and/or U.S. Patent Application Publication(s) on PTO/SB08 is/are not being submitted.
- B. Document(s) _____ is (are) deemed substantially cumulative to document(s) _____, and, in accordance with 1.98(c), only a copy of each of the latter documents is enclosed.
- C. Certain documents were previously cited by or submitted to the Office in the following prior applications, which are relied upon under 35 U.S.C. 120:

<<INSERT SERIAL NO. & FILING DATE>>

Applicant identifies these documents by attaching hereto copies of the forms PTO-892, PTO-1449 and/or PTO/SB/08 from the files of the prior application(s) or a fresh PTO/SB/08 listing these documents, and request that they be considered and made of record in accordance with 1.98(d). Per 37 CFR 1.98(d), copies of these documents need not be filed in this application.

- 3. Cite No. BA is not in the English language. In accordance with 1.98(c), Applicant states:
 - An English translation of each document (or of the pertinent portions thereof), or a copy of each corresponding English-language patent or application , or English-language abstract (or claim) is enclosed.
 - The requirement for a concise explanation of the relevance of any foreign language document is satisfied by the attached search report; citation of the documents cited in the search report shall not be construed as an admission that they are or are considered to be, material to patentability of the subject matter claimed herein (See MPEP §609).
 - A concise explanation of the relevance of document(s) _____ is set forth as follows: [Insert concise explanation of relevance]
 - A concise explanation of the relevance of document(s) _____ can be found on page(s) _____ of the specification.
 - A concise explanation of document(s) _____ can be found on the attached sheet.

- 4. No explanation of relevance is necessary for documents in the English language (see reply to Comments 67 in the preamble to the final rules; 1135 OG 13 at 20).
- 5. Other information being provided for the examiner's consideration follows:

[A Spanish Search Report, dated November 13, 2006, which issued during the prosecution of Spanish Application No.200401461 which corresponds to the present application.]

6. In accordance with 37 C.F.R. 1.97(g) and (h), the filing of this IDS should not be construed as a representation that a search has been made or that information cited is, or is considered to be, material to patentability as defined in §1.56 (b), or that any cited document listed or attached is (or constitutes) prior art. Unless otherwise indicated, the date of publication indicated for an item is taken from the face of the item and Applicant reserves the right to prove that the date of publication is in fact different.

Early and favorable consideration is earnestly solicited.

Payment in the amount of \$180.00 covering the fee set forth in 37 CFR 1.17(p). is enclosed. The Commissioner is authorized to charge any deficiency of up to \$300.00 or credit any excess in this fee to Deposit Account No. 04-0100.

Dated: January 31, 2007

Respectfully submitted,

By  Fawn Baudoin
(53,978)

Cameron Elliot

Registration No.: 45,539
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257
(212) 527-7700
(212) 527-7701 (Fax)
Attorneys/Agents For Applicant

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Substitute for form 1449(PTO)				Complete if Known	
				Application Number	10/722,590-Conf. #5682
				Filing Date	November 25, 2003
				First Named Inventor	Stephen Russak
				Art Unit	2859
				Examiner Name	G. K. Verbitsky
Sheet	1	of	1	Attorney Docket Number	00467/100M163-US1

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cte No. ¹	Document Number	Publication Date	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number/Kind Code ² (if known)	MM-DD-YYYY		
AA*	US-20040170216-A1		02-09-2004	Russak et al.	
AB*	US-5,401,100-A		03-28-1995	Thackston et al.	

FOREIGN PATENT DOCUMENTS					
Examiner Initials*	Cte No. ¹	Foreign Patent Document	Publication Date	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)	MM-DD-YYYY		
BA	JP-02262025-A		10-24-1990	Alba Kazuhide	
BB	WO-9721081		06-12-1997	Polymedica Ind. Inc	
BC	WO-9858227-A1		12-30-1998	Exergen Corp	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹Applicant's unique citation designation number (optional). ²See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³Ex Officio that issued the document, by the two-letter code (WPO Standard ST 3). ⁴For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵Kinds of document by the appropriate symbols as indicated on the document under WPO Standard ST 16 if possible. ⁶Applicant is to place a check mark here if English language Translation is attached.

NON PATENT LITERATURE DOCUMENTS					
Examiner Initials	Cte No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published			
	CA	Spanish Patent and Trademark Office Report on the State of the Art for Spanish Application No. 200401461, dated November 13, 2006.			

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹Applicant's unique citation designation number (optional). ²Applicant is to place a check mark here if English language Translation is attached.

Examiner Signature	Date Considered
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OFICINA ESPAÑOLA
DE PATENTES Y MARCAS
ESPAÑA

① N.º solicitud: 200401461

② Fecha de presentación de la solicitud: 15.06.2004

③ Fecha de prioridad:

INFORME SOBRE EL ESTADO DE LA TECNICA

④ Int. Cl.: A 61B 5/01 (2006.01)
G01K 13/00 (2006.01)

DOCUMENTOS RELEVANTES

Categoría	Documentos citados	Reivindicaciones afectadas
E	US 20040170216 A1 (RUSSAK, S. et al.) 02.09.2004, reivindicaciones 1-21; figuras.	1-21
Y	JP 02262025 A (AIBA, K.) 24.10.1990, todo el documento.	1-21
Y	WO 9721081 A1 (POLYMEDICA INDUSTRIES, INC.) 12.06.1997, todo el documento.	1-21
A	WO 9859227 A1 (EXERGEN CORPORATION) 30.12.1998, resumen; página 4, líneas 26-35; figura 1.	1-21
A	US 5401100 A (THACKSTON, T. et al.) 28.03.1995	

Categoría de los documentos citados

X: de particular relevancia

Y: de particular relevancia combinado con otros de la misma categoría

A: refleja el estado de la técnica

O: referido a divulgación no escrita

P: publicado entre la fecha de prioridad y la de presentación de la solicitud

E: documento anterior, pero publicado después de la fecha de presentación de la solicitud

El presente informe ha sido realizado

para todas las reivindicaciones

para las reivindicaciones nº:

EUROPEAN PATENT OFFICE

Patent Abstracts of Japan

PUBLICATION NUMBER : 02262025
PUBLICATION DATE : 24-10-90

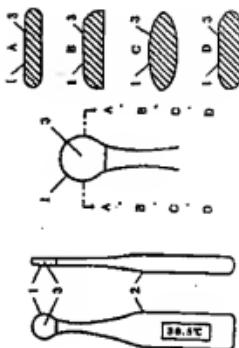
APPLICATION DATE : 31-03-89
APPLICATION NUMBER : 01082985

APPLICANT : AIBA KAZUHIDE;

INVENTOR : AIBA KAZUHIDE;

INT.CL. : G01K 5/22 A61B 5/00

TITLE : CLINICAL THERMOMETER WITHOUT PAIN AND CLINICAL THERMOMETER, WITH WHICH CHILD IS NOT BORED



ABSTRACT : PURPOSE: To measure the temperature of a body without pain for children and babies by providing a constitution wherein the tip part and the temperature sensing part of a clinical thermometer is made flat, and roundness is provided.

CONSTITUTION: A tip part 1 and a temperature sensing part 3 of a clinical thermometer are made flat, and roundness is provided. The flat shape is referred to depressed state in various shapes as shown in figures A - D on the contrary to the cross section of the tip part of a conventional clinical thermometer having a circular shape. The roundness is not limited to a circular shape, but the shape whose tip is not pointed can be used. Since the tip part 1 of the clinical thermometer such as this does not stick the armpit, the temperature of the body can be measured without pain for children and babies.

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